

1869-004
Lee Co.

Chancery Causes: Felix G. Lewis vs. William W. Lewis & Co

Surginner, Surgener

CA-Contract Dispute
T-Property

Virginia Lee County Court

To the worshipful Justices of the Lee County Court in chancery sitting, your orator Felix G. Lewis, humbly complaining represents to your worships, that on the 11th day of Sept 1857 one William W. Lewis, Andrew Lewis & A. R. Surges were as partners engaged in buying horses in Harlan County in the state of Kentucky. They all resided in the state of Virginia at the time. William W. Lewis & Andrew Lewis done the buying and held themselves out to the world & represented to your orator that they were partners of Surges, they bought a horse of one Jeeze Jenkins at the price of \$100, and executed their promissory note for to said Jenkins for that sum payable by the 25th day of December, which said note had the name of Surges & the two Lewises subscribed to it, and your orator at the request of the two Lewises subscribed his name to it also as surety of the said Lewises & Surges. He further represents that William W. Lewis afterwards filed his petition ordinary in the Harlan circuit court against Jeeze Jenkins, to recover from him damages for an alleged defect in the said horse, in which petition he represents that he bought the horse of Jenkins & as principal executed the note, and that Surges, Andrew Lewis & your orator signed the note as his sureties, ~~and~~ he represents ~~the note was executed for~~ that William W. Lewis, Andrew Lewis & Surges failed to pay

Jenkins the said sum of \$100, as by the note
to which your orator was switz as aforesaid
they bound themselves, and said Jenkins
in filing his defence to the said switz
William W. Lensey had brought against him
in the Warburton circuit court made his
answer a cross petition & by way of counter
claim sought to recover of said William
W. Lensey Andrew Lensey A R. Surzumer and
your orator the sum & interest thereon
expressed in said note, except six dollars
which had been paid & credited thereon
Such proceedings was had in the said
suit on the original & cross petition as
resulted in a judgment dismissing the
petition of Lensey W. Jenkins, and on
the cross petition as resulted in a judg-
ment in favor of Jenkins rendered at the
April term 1860 of said court against the
said Andrew Lensey A R. Surzumer & your ora-
tor for the sum of \$100, debt, with interest
from the 25th of Decr 1857 until paid & costs
^{amounting to the sum of \$38.97}
Subject to a credit of \$6.00 all of which
more fully and at large appears by the record
now remaining in said court a certified
copy whereof your orator will in due time
file as a part hereof, your orator further
represents that the said Lenseys & Surzumer
wholly failed to pay of said judgment
& your orator being a resident of that
state was compelled to pay the same
yet the said Lenseys & Surzumer or either one
of them have wholly failed to pay your orator

8
said sum or any part thereof, Surzumer pretends
he was not a partner of William W. Lensey. But only
a switz & William W. Lensey perverts about the
matter, so it is no one of them will pay your
orator, he is remediless at law & can only get relief
in this honorable court, he prays your worship to
grant him all general & special relief that his
case merits in equity, he prays that the said
Lenseys & Surzumer be compelled to answer and
discover in what relation they stand to each
other in the matter, whether they are all
principals or partners, or were some of them
principals & others sureties, if either of them
were sureties to the other then he prays that
they shew who were principal & who switz
in the note, and finally if it appears
that all were principals as he was induced
to believe when he signed the note as
switz, then he prays for a decree against
all of them for the full amount of principal
interest & costs & interest thereon he had
to pay to Jesse Jenkins, should it
turn out that some one only of them
were principals & others the switz and the
one that was principal is not solvent
then he prays for contribution from the
co-sureties, But if the one that is the
principal is solvent then he prays for
a decree against him, to that end he
prays that the defendants in their answer
state plainly & distinctly whether or not
Andrew Lensey, William W. Lensey & A R.
Surzumer, we each one severally con

Sincerely I submit & if not which one is not
 to the end of the chief ultimately I ought
 he makes A R Surgenor, William M Leary &
 Andrew Leary parties defendant to this Bill
 and pray for process against them & that
 they each one on oath be compelled to an-
 swer each allegation of this Bill, as
 fully & specifically as if repeated as a
 & propounded to them severally, by means of
 special interrogatories, and as in duty
 Bound he will ever pray &c
 Burns pg

1869 May 14

Robert L. Leary

Bill

1869 May - 163.89

as 5.00
 5 1.50
 7 - 50

10.89

14.02

1869 June. Credit

William Leary
 et al

1868 Oct Bill filed for 1000

Leary & Leary have not
 been paid for 1000 and 1000

and 1000 and 1000

for 1000 and 1000

for 1000 and 1000

for 1000 and 1000

1869 June 1000

March 1000

April 1000

May 1000

June 1000

July 1000

1869

To the worshipping County Court of Lee County, in
chancery sitting -

The separate answer of A. R. Suggener
to the Bill of Complaint exhibited in said Court, by Felix
G. Lewis, against him, and William M. & Andrew Sevasy, of
said County. This respondent reserving to himself the right to
object, & except to said Bill, for its numerous errors, and misstatements
of both law and fact, would, so far as it is material to the
answer the same, state, that without admitting the facts to be so, it
may be true as the Complainant alleges, that he, and the two Sevasys Mr. W.
& Andrew, may have executed a note to Sepe Jenkins for the sum alleged, &
for the consideration stated, and that the proceedings detailed in the Bill
may have been had thereon, and the Complainant paid the said judgement
obtained thereon, and it may be, that the name of this respondent, appeared
to said note in ^{the} Bill & proceedings mentioned; but it is not true, that this
respondent made, signed, or subscribed said note, and he positively
and emphatically denies that he did execute said note, or authorize
or empower any one else to do so; this ^{Def^t} also denies that he was the
partner of Andrew, or William M. Sevasy, or either of them, in the purchase
of horses, and that if the said Sevasys held him out as their partner
it was their own Voluntary act, without the consent, or authority of this
respondent, & therefore he is not bound in law or equity by their misrepresentation.
This respondent never, either directly, or indirectly, requested the said Complt
Felix G. Lewis, to become surety, or principal, in the note in his Bill
mentioned, and if he done either, it was without ^{any} agency of this
respondent, and if he has been injured by said act, your Respondent
is advised, he must look to those who superinduced it, to indemnify
him, and not to this Dept. The horse in the Complt's Bill mentioned
was purchased, if at all, without the knowledge, consent, or authority, of
this Dept, and the said note, referred to by Complt, was likewise, so far as
this Dept is concerned, executed, without his knowledge, consent, or
authority, either exp^{res}s, or implied, and this Dept was never benefited
by the purchase of said horse, or his interest intended to be
advanced, thereby, as this Dept is aware. This respondent will
now state, that the only shadow of pretext that the said Sevasy could
have had for making use of this respondents name to said note,
if it was them, that did sign respondents name to it, is this, sometime

before the said Mr. M. & Andrew Levasy and others made a trip to Ky and returned with several horses, the said Andrew Levasy, came to this respondent and stated that he could buy good sheep in Kentucky for One Dollar per head before they were sheared, and solicited this respondent to join him in said purchases, which this respondent, reluctantly did, agree to do, if made at said price of one dollar per head, to the extent of about 100 head, but the said Levasy did not desire this respondent to join him in the purchase of any other property, and in truth, this respondent was not aware, that he designed purchasing any property, except sheep, and of course, did not agree, to join said Levasy, in the purchase of any other property, whatever, or in any way, authorize him to use his name in said purchases if made, and in the sheep transaction, this respondent had nothing to do, or say, with the said Mr. M. Levasy. When the said Andrew Levasy, this party went to Kentucky, they were unable to buy sheep at the price, this respondent, authorize, the said Andrew Levasy to purchase them, in connection with him, and they did not purchase any sheep, but as your respondent has good reason to believe, turned their attention to horses, with which this respondent again objects he had nothing to do, either before they started, or after they returned, either directly, or indirectly, as being a joint owner thereof, or in any wise interested in the same. It was sometime before this respondent knew, or was informed that his name appeared to a note, they had executed whilst in Kentucky, and when it came to his knowledge, this Deft, threatened to prosecute the party using his name without authority, or benefit, to this Defendant. This Deft never got any of said horses, or if he did he paid for them as any other purchaser, and not as a part owner thereof. This Deft did get as he remembers a barrel more, in part discharge of the said Mr. M. Levasy's liability to this Deft, for Brandy which he had bought & placed in said Levasy's hands for sale, and the proceeds of which he had appropriated to his own use, or squandered, and this is the only animal of the horse kind, that this Deft, remembers to have gotten from said Mr. M. Levasy in any way whatever. As required by Complainant's Bill

this respondent further answers, that he believes, that each of said Levasy's Mr. M. & Andrew, are separately worth the amount of the debt, in the Plaintiff's ^{Bill} mentioned, and is very confident, that the said Andrew Levasy is fully responsible.

And now having answered the Compt. Bill, so far as it is deemed material to answer, this respondent now expressly denies, every allegation contained therein, not herein before denied, admitted, or avoided, and prays to be hence dismissed with his costs, and as in duty he,

Lane for Deft
Burgener

Sworn to before me by A. R. Burgener this 19th day of April 1869

Henry J. Morgan Com. in Ky
County & Circuit Courts in County

A. R. Sargener.
ads. } answer.
Felix G. Lewis.

1869. April Term This
Answer filed
J. B. West D.C.

6 1.73
u 5.00

\$ 16.73

Felix G Lewis p^l

vs

Decree

W W Lersey et als de^fs

This cause came on to be heard on the bill and exhibits filed the record from Kentucky, & the receipts filed and the answer of the defendant Surgeon, and was argued by counsel, and the court being sufficiently advised now decrees & orders that as to the defendants W W & A Lersey the allegations of the complainant Bill be taken for confessed against them, they having been duly served with a summons to answer the bill more than two months before the present term of the court, and having failed to plead answer, demur or otherwise make defence, it is enjoined decreed & ordered that the complainant recover of the defendants W W & A Lersey the sum of \$38.97 cts with interest at 10% from the 25th of Decr 1867 til paid subject to a credit of \$6. the 15th of Jan'y 1868, and on the sum of \$38.97 cts from this date, it is further enjoined decreed & ordered that the p^l recover of the defendants Lerses, ^{his} costs here in to be taxed by the clerk in charging \$3.10 cts the cost of a record from Harlan county Ky. ^{As he is enjoined his costs to be taxed by the clerk, the p^l is entitled to it.} As to the defendant Surgeon, this cause is continued to the next term with leave to the defendants Lerses, to file any cross bill or answer or both as to him that they may deem necessary to settle the matter between them & this decree is ^{not} to lay on

otherwise effect any relief that the said
Lemmas may hereafter show themselves
entitled to against said Sursumer, if
they are entitled to any.

H G Lewis
vs Deere

Lemmas.

Entered p 424.

This record is excepted to. See last page.

Hasan circuit court

William W. Severy Plff

against

Jesse Jenkins Defendant

3 Petitions

The plaintiff William W. Severy states that on day of September 1857 he purchased of the Defendant Jesse Jenkins a horse at the price of one hundred and seven dollars & fifty cents

there & then executing to plff a note legally signed by himself to gether with A. R. Lurpener Andrew Severy & John S. Lewis as his security due on the day of 1858 there after payable to the Defendant Jesse Jenkins for the sum of 100 on the said purchase fraudulently representing the horse to be sound then, ~~but~~ but that he had had the fistula some two years since, but was now entirely well in truth and fact was unsound and had the fistula within the last eight months

part before said purchase

and at the time of said purchase
the horse was unsound and diseased with
the fistula & that by reason of said unsound-
ness the horse has become almost entirely
worthless wherefore the plff prays
Judgment for one hundred Dollars
Damage & for all proper relief

J. W. & E. Saroyen atty
for Plff

State of Kentucky Harlan County
A. R. Serger says he ~~is~~ is the agent
of the Plff of W. W. Levesy who is
absent from Harlan County and that
he believes the statements set forth in the
foregoing petition are true W. W. Levesy
sworn to before me by A. R. Serger
this 26th day of April 1858

Jno B. A. Mills excc
Filed April 26th 1858

Jno B. A. Mills excc
Summons & app issued May 10th 1858
Jno Mills clerk

Harlan Circuit Court

William W. Levesy Plff
vs
Jesse Jenkins Deft

The Defendant Jesse Jenkins
for answer to the ~~Plaintiff's~~ Petition
of the Plaintiff Wm W Levesy
says that he did on the day of
1855. Sell to the plff a horse for
the sum of one hundred and seven
Dollars & 50 Cents. of which sum seven
Dollars & 50 Cents was paid down
and a note was executed by the
plff for the sum of one hundred
Dollars with A. R. Serger, Andrew
Levesy and Felix Lewis as his security
payable by the 25th day of Decr 1857
dated Sept 1857. said note is hear-
with filed no part of which has
been paid except the sum of \$14
Dollars which is credited on the
note he says that at the time

he sold the horse to the Plff
that he did inform the said Plff
that the horse had had the Tristoe
that it was cured up that had been
Cured up several times and returned
that he did not know but that it
might return and he never did
warrant that the same would not
return, that he fully represented
the condition of the horse and did
not warrant the same, he denies
all fraud in the matter. Deft
makes this a Cross Petition against
the plff A R Sergener Andrew
Lovesy & Felix G Lewis and asks
for a judgment against them
for one hundred Dollars that
amount of said note Subject
to a credit of six dollars with
Interest & Cost and all proper
relief Dishman & Anderson
for Deft

Jesse Jenkins Says that he believes
the State merits in the foregoing an-
-wers are true Jesse Jenkins
sworn to before me by Jesse
Jenkins this 22^d of Sept 1858
Jno B. T. Mills onca

By the twenty fifth day of
December next we or either of us
promise to pay Jesse Jenkins one
hundred for value received of
him this the 11th day of Sept
1857

William N. Livsey
A R. Sergener
Andrew Lovesy
Felix G Lewis

+

The Common wealth of Kentucky
To the Sheriff of Harlan County
you are Commanded to Summon
Jesse Lewis to answer on the
first day of the next Sept term
of the Harlan Cir Court Court
a petition filed against them in
the Harlan Cir Court Court by
Jesse Jenkins and warn him
that upon his failure to answer
the petition will be taken for
confessed or ~~that~~ will be pro-
ceeded against for Contempt
and you will make due
return of this Summons on
the first day of the next Sept.
term of said Court witness
Jno B. J. Mills Clerk of
said Court this 21st day of
April 1857 Jno B. J. Mills
Clerk

Executed the within By
handing him a true copy
this 21st day of April 1857
J. W. Menden Dd
For John McGeorge etc

The Common wealth of Kentucky
To the Sheriff of Harlan County
you are Commanded to Summon
Jesse Jenkins to answer on the
first day of the next Sept term
of the Harlan Cir Court Court
a petition filed against him in
said Court by W. W. Levedy & warn
him that upon his failure to answer
the petition will be taken for con-
fessed or he will be proceeded
against for Contempt and you
will make due return of this
Summons on the first day of the
next Sept term of said Court witness
Jno B. J. Mills of said Court this 10th day of May 1858
John B. J. Mills Clerk

Executed on Jesse Jenkins
July 24th 1858 by handing
him a true copy of the same
J Lewis S KC

On motion of the atty for
the Deft a rule is made against
Mr W Livesey who is a non resid-
-ent of this state, to file a
Bond for cost in this action
returnable to the 3^d day this
present Court

A Copy test Jno B A Mills
CWC

On motion of the atty for the
Deft a rule is made agst
Mr W. Livesey who is a non resident
of this state to file a bond for
cost in action given under
my hand as clk of said court
May 29th 1860 Jno B A Mills
By A W. Holmbl

April Term 1860

On motion of the attorney for
the Deft a Rule is made against
Mr W. Livesey who is a non resident
of this state to file a bond for
cost in this action returnable
to the 3^d day of present term
of this Court

A copy test Jno B A Mills CWC

On motion of the atty for the Deft
a rule is made agst Mr W. Livesey
who is a non resident of this state
to file a bond for cost in this action
Returnable to the next term of this
Court Given under my hand this
29th of May 1860

Jno B A Mills CWC
By A W. Holmbl

Returned not Executed
S W. Merian S KC

Lewis vs Steps
Jenkins

April 1860. Order for Rule against
plff to file bond for Cost
Rule & Copy issued
Judgment vs Helix Lewis &
on Cross Petition of Jenkins
& Continued

Wm W. Lewis vs Bill of Cost
Jesse Jenkins

Sept. To filing answer ^{in petition} ~~to~~ ^{1/6} 10
1858 Entering atty 10 Order asking same 1/6 35-
Summons on Petition 1/6 1/6 10 65-
Sherriffs return 10 Spd 20 20
Rule vs Lewis to give Bond for Cost 25-
asking same & copy & Sherriffs return 10 60
Order for summons vs Helix Lewis 25-
Summons & copy Sherriffs return 45-

Alias Summons & copy vs Helix

Lewis 1/6 Copy 10 35-
Sherriffs return 10
Sept 59. 1 Spd 20 Entering 2 witness ^{20 each} 70
Entering attendance of 2 witnesses 25 50
Apr 1860 Order for Rule vs Lewis to give
Bond for Cost 25-
Rule 1/6 Copy 1/6 Sherriffs return 10 60
1 Spd 20 Judge 1/6 Entering same on book 1/6 70
3 witnesses Certificate 1/6 75-
Filing papers 20 & Filing cost 20 40
Figa 31- 50

Clerks fees \$7.70
Witness attendance 22 68
Atty fee 250
Sherriffs 210
Sept term 1860 \$34.98
1 Spd 20 & Order summing sent 25 45-
Entering same on Book 25-
Filing papers 20 & Filing Cost 20 40
Execution 50 & Witness Certificate 25 75-
\$38.97 3683

Severy vs Sept term 1858

Jenkins on motion of Deft atty
a Rule is made agst the Deft
who is a non resident of this State
to give Bond for cost in or before
the calling of this cause at this term

Severy vs Sept term 1858

Jenkins on motion of the atty for
the Deft the answer and Cross Petition
of Deft Jenkins is filed it is ordered
by the court that a Summons issue agst
Julius Lewis & Wm. W. Severy and the
Defts Andrew Severy & A. R. Severy.
Are warned to appear on the first
of the next April term of this court
to answer said Cross Petition
and John G. Eve is appointed
atty to Defend for the above named
non residents to all of
which the plff by his atty
excepts

~~Wm. Severy vs Cross Petition~~

~~vs~~
~~James Jenkins vs Cross Petition~~

~~This Cross Petition~~

Severy vs Jenkins April Term 1860
on motion it is ordered by the Court
that a Summons issue agst Julius G.
Lewis to Perry County on the Cross
Petition filed by Deft Jenkins

Severy vs April term 1860

Jenkins
On Motion of the attorney for
the Defendant a Rule is ~~made~~
made against William Severy
who is a nonresident of this State
to file a bond for cost in this
action returnable to the first day
of the next term of this Court

April Term 1860-

Pro Livery 3
vs. 3 Cross Petition Taken
Jesse Jenkins for Confessed
This Cause came on and

It appearing to the Satisfaction
of the Court, that Defendant A &
Sergeant Andrew Livery and
Julia Lewis have been duly
Served with Process, and they
failing to answer the Cross
Petition of Jesse Jenkins, and
that it is stated for Confessed

It is therefore considered by the
Court that the said Jesse Jenkins
recover of the Defendants A & Ser-
geant Andrew Livery & Julia Lewis
the Sum of \$100, with interest
from the 25th Decr 1857 and Cost
in his behalf expended Subject
to a Credit of \$46. January 13 1858-

Pro Livery 3 April Term 1860
vs. 3
Jesse Jenkins }
Continued

Pro W. Livery 3 Sept Term 1860
vs. 3
Jesse Jenkins } Petition

On motion of the
cause is dismissed at pliffs
Cost wherefore it is ordered
by the Court that the pliff
pay the Cost of this action
for which Execution may
issue

Exception to this record.

This is deemed insufficient as evidence, as
the Deft Surgeon, because it does not show
upon its face, that he was served with process,
in Ky. or that he had property therein, that was
acted upon by process, & therefore the Court had
no jurisdiction. April 19 1869. Same for Surgeon.

State of Kentucky
Harlan County
I J K Bailey Clerk of the
Harlan Circuit Court and
State of Kentucky do certify
that the foregoing pages con-
tain a full and complete
transcript of the proceedings
in the Case William W. Levesy
against Jesse Jenkins also the
proceedings on ~~compro~~
petition of Jesse Jenkins
against A R Surgenor
Andrew Levesy and Rubin S. Lewis
as appears in my office
in testimony whereof I have
hereunto set my hand and
seal there being no seal
of office, ^{done} at Mt Pleasant
this 30th day of April 1867
J K Bailey CMC

fee for copying Record # 2.13
J K Bailey CMC

I Granville Pearl
Judge of the 12th Judicial
District in & for the State of
Kentucky & Harlan County
forming part of the 12th
Circuit do Certify that
J W Bailey is and was at
the time of signing the foregoing
Certificate Clerk of the
Harlan Circuit Court duly
elected and qualified as such
and all of his official acts is
entitled to full faith and credit
and his signature as it above
appears is genuine Given under
my hand this 30th day of April
1867

Granville Pearl

John E. Smith, Harlan Co.

Poor Fork, 13 miles above C.H.

its.
\$50.00 Recd of Jas. H. Caldwell fifty Dollars
which is to be credited on a judgment that I have
against Felix Lewis in the Harlan Court this the 21st
April 1861 Lease. Jenkins

M^r. A. H. Nolan please credit \$50. on our first apt. sum
+ Linsey - & the balance is for the correct for & give as a

~~Mr. Messrs. Writings
will have 2 necks Pass Runaway from Ligeia ill
Ligeia, yellow Pass 30 or 35 years old
others black 20 or 25 years old
This road and you can get them -
in some paid when you get them -
in some paid when you get them -~~

Recd of Felix J. Lewis by the hand of James H.
Goldiron \$10 in the year 1860 in part pay on
a judgement that I then had against Felix J.
Lewis, Secy, an dergiler in the Marlan circuit
court By this 11th May 1867

Jesse Benkins

Recd of Alex. G. Lewis ten by dollars which
is to be credited on note that I hold against
Andrew Livessy A R Sengamer and Jett
G Lewis this 20th of April 1880

Jesse Jenkins

John G. Smith

The Commonwealth of Virginia,

TO THE SHERIFF OF LEE COUNTY—GREETING:

WE COMMAND YOU TO SUMMON

William W. Sevisy A.R. Surgenus
and Andrew Sevisy

Justices of our County
to appear before the ~~Judge of our Circuit~~ Court for Lee county, at the Court House, in
the Clerk's Office, at Rules to be holden for the said Court, on the *first* Monday
in *October* next, to answer a Bill in Chancery exhibited in our said Court
against *them* by *Felix G. Lewis*

And have then there this writ. WITNESS, HENRY J. MORGAN, Clerk of our said
Court, at the Court House, this *14th* day of *September* 1868, in
the *93rd* year of the Commonwealth.

Henry J. Morgan Clerk.

B

Felix G. Lewis

vs. { Spain in Chy

William W. Lewis et al

Octo Rules 1868

Executed on A R Sergines
by delivering to him an at-
tested office copy of the writ
in Spa -

J W Orr S L C

Not Executed on the other
defendants for want of
time

Wm McPherson

Deputy for J W Orr S L C.

The Commonwealth of Virginia,

^{again}
WE COMMAND YOU TO SUMMON *William W. Levisy* and *Andrew*
Levisy

TO THE SHERIFF OF LEE COUNTY—GREETING:

Justices of our County
to appear before the ~~Judge of the Circuit~~ Court for Lee county, at the Court House,
in the Clerk's office, at Rules to be holden for the said Court, on the *first* Monday
in *November* next, to answer *a Bill in chancery* exhib-
ited in our said Court against them by Felix G. Lewis

And have then there this writ. WITNESS, HENRY J. MORGAN, Clerk of our said
Court, at the Court House, this *2 3rd* day of *October* 186 *8*, in
the *9 3rd* year of the Commonwealth.

Henry J. Morgan, Clerk.

(13)

Felix G. Lewis
vs. } Alias Spain Chif.
William H. Lewis et als.
November Rules 1868.

Executed on Wm W Lewis
& Andrew Lewis by de-
livering to each an attested
office copy of the within
inir.

Wm W Pearson D.S.
For Jas W Orr. & L Co.